

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

69cv07941-BB

RIO CHAMA STREAM SYSTEM

Section 1, Chama Mainstream

Acequia de Jose V. Martinez

ORDER ON PRIORITY DATE OF WATER RIGHTS
UNDER ACEQUIA JOSE V. MARTINEZ

THIS MATTER is before the Court following the April 18, 2011, *Motion for Order on Priority Date of Water Rights Under Acequia de Jose V. Martinez* in Section 1 of the Rio Chama Stream System (Chama Mainstream) (Doc. No. 10,042).

The Court finds:

1. Pursuant to the *Amended Order on the Adjudication of Water right Priorities* (Doc. 3497, filed July 8, 1994), all known and unknown claimants of water rights under the Acequia de Jose V. Martinez were served with a Notice and Order to Show Cause setting forth a priority date of 1740 for their water rights under this acequia. *See Certificate of Service* filed October 20, 1994 (Doc. No. 3526.A); *New Mexico's Certificate of Publication for Priority Date Notices and Orders to Show Cause* filed November 29, 1995 (Doc. No. 4413). The commissioners of the Acequia de Jose V. Martinez (a community ditch) were served with a Notice and Order to Show Cause setting forth a priority date of 1740 for the water rights under this acequia. *See Certificate of Service* filed December 12, 1994 (Doc. No. 3979.33).

3. The Acequia de Jose V. Martinez, by and through the commissioners of the acequia, filed an objection to the priority date proposed by the State (1740). *See Objection to Order to Show Cause and Priority Date* filed February 3, 1995 (Docket No. 3993.4). Pete Fresquez (Subfile 417) also filed an objection to the proposed priority date. *See Objection to Order to Show Cause and Priority Date* filed December 7, 1994 (Docket No. 3974.1).

4. On December 27, 1995, the State and the Acequia de Jose V. Martinez, by and through it's counsel of record, Fred J. Waltz, stipulated that the priority date of the acequia date ought to be 1735. *See Stipulation on Priority Date for Acequia de Jose V. Martinez* filed December 27, 1995 (Docket No. 4444).

5. No objections have been filed to the April 18, 2011, *Motion for Order on Priority Date of Water Rights Under Acequia de Jose V. Martinez* by the State of New Mexico, requesting that the Court approve and adopt the *Stipulation on Priority Date for Acequia de Jose V. Martinez* filed December 27, 1995, and determine that 1735 is the priority date of the water rights under this acequia and amending all subfile orders entered to date for water rights under the Acequia de Jose V. Martinez.

6. There is no just reason for a delay for the entry of a final judgment as to the priority date of the water rights for lands irrigated by the Acequia de Jose V. Martinez.

IT IS ORDERED, THEREFORE, that the Court approves and adopts the *Stipulation on Priority Date for Acequia de Jose V. Martinez* filed December 27, 1995 (Docket No. 4444).

IT IS FURTHER ORDERED, that 1735 is the priority date of the water rights under the Acequia de Jose V. Martinez, and that the priority dates in all subfile orders heretofore entered in the Chama Mainstream Section that describe irrigation water rights under the Acequia de Jose V.

Martinez are revised and amended as follows:

Priority: 1735

The individual subfiles in the Chama Mainstream Section affected by the above provision of this Order are listed in Appendix 1 attached hereto.

IT IS FURTHER ORDERED, that the Court enters this Order as a final judgment, subject to the right of other water rights owners to file objections to individual adjudication orders prior to the entry of a final decree.

A handwritten signature in black ink, appearing to read "Bruce D. Black", followed by a horizontal line.

BRUCE D. BLACK
UNITED STATES DISTRICT JUDGE

Recommended for approval:

/electronic signature/
SPECIAL MASTER VICKIE L. GABIN